

# HB1768 HD2

Measure Title: RELATING TO INFORMATION PRACTICES.  
Report Title: Information Practices; Legislative Employees; Salary Ranges  
Description: Permits public inspection and duplication of salary ranges, rather than exact compensation, for legislative employees. (HB1768 HD2)  
Companion: [SB2870](#)  
Package: None  
Current Referral: LBR, JDC  
Introducer(s): SAIKI, BELATTI, MORIKAWA, NAKASHIMA, Kobayashi

<u>Sort by</u> <u>Date</u>		<b>Status Text</b>
1/16/2018	H	Prefiled.
1/17/2018	H	Introduced and Pass First Reading
1/22/2018	H	Referred to LAB, JUD, referral sheet 4
1/25/2018	H	Bill scheduled to be heard by LAB on Tuesday, 01-30-18 9:30AM in House conference room 309.
1/30/2018	H	The committees on LAB recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 7 Ayes: Representative(s) Johanson, Holt, Evans, Ichiyama, Keohokalole, Yamashita; Ayes with reservations: Representative(s) Matsumoto; Noes: none; and Excused: none.
2/6/2018	H	Reported from LAB (Stand. Com. Rep. No. 72-18) as amended in HD 1, recommending passage on Second Reading and referral to JUD.
2/6/2018	H	Passed Second Reading as amended in HD 1 and referred to the committee(s) on JUD with none voting aye with reservations; none voting no (0) and Representative(s) Har, Kong, Souki excused (3).
2/9/2018	H	Bill scheduled to be heard by JUD on Tuesday, 02-13-18 2:00PM in House conference room 325.
2/13/2018	H	The committees on JUD recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 7 Ayes: Representative(s) Nishimoto, San Buenaventura, Brower, Morikawa, Takayama, McDermott, Thielen; Ayes with reservations: none; 0 Noes: none; and 1 Excused: Representative(s) C. Lee.
3/2/2018	H	Reported from JUD (Stand. Com. Rep. No. 1068-18) as amended in HD 2, recommending passage on Third Reading.
3/2/2018	H	Forty-eight (48) hours notice Tuesday, 03-06-18.
3/6/2018	H	Passed Third Reading as amended in HD 2 with Representative(s) LoPresti, Matsumoto voting aye with reservations; Representative(s) Choy, DeCoite, Har, Ito, Say, Tokioka, Tupola voting no (7) and Representative(s) Woodson excused (1). Transmitted to Senate.
3/8/2018	S	Received from House (Hse. Com. No. 275).
3/8/2018	S	Passed First Reading.
3/8/2018	S	Referred to LBR, JDC.
3/12/2018	S	The committee(s) on LBR has scheduled a public hearing on 03-15-18 2:45PM in conference room 229.

**S** = Senate | **H** = House | **D** = Data Systems | **\$** = Appropriation measure | **ConAm** = Constitutional Amendment

Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

## HB1768 HD2

BRIAN L. TAKESHITA  
Chief Clerk

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## HOUSE OF REPRESENTATIVES

STATE OF HAWAII  
STATE CAPITOL, ROOM 027  
415 SOUTH BERETANIA STREET  
HONOLULU, HAWAII 96813

**House Bill No. 1768, H.D. 2**  
Thursday, March 15, 2018  
2:45 p.m., Conference Room 229

TO: Chair Jill N. Tokuda  
Vice-Chair J. Kalani English  
Members of the Senate Committee on Labor

FROM: Brian L. Takeshita  
Chief Clerk, Hawaii State House of Representatives

As the Chief Clerk of the Hawaii State House of Representatives, I **SUPPORT** House Bill No. 1768, H.D. 2.

Hawaii Revised Statutes Chapter 92F-12(a)(14) requires disclosure of the names and compensation (among other information) of most state and county employees. However, while civil service employees and educators may only have a salary range disclosed, other employees, including those of the Legislature, must have their exact salaries disclosed. This inconsistency must be addressed for a number of reasons.

First, this discrepancy puts legislative employees at a disadvantage relative to their civil service counterparts by requiring the release of more detailed information about one group over another. Where all are public servants, it is unreasonable to discriminate amongst the groups.

Second, the requirement to automatically disclose the exact salaries of specific individuals serves no reasonable purpose that couldn't be achieved by disclosing a salary range instead. Additionally, salary is in certain cases considered personally identifiable information, and disclosable only when a requesting entity has a legitimate reason for doing so. Employees in the private sector have a reasonable expectation that their salary is not given out upon just any request, and there is no reason public sector employees such as those employed by the Legislature should not have the same expectation.

Third, a local news organization has made a regular feature of obtaining the names and salaries of state and county employees and publishing this information on their website for all to access. Without even needing to submit a request to the House

or Senate, anyone from marketers to creditors to curious neighbors may access the exact salary of our legislative employees for whatever purposes they desire. Additionally, the easy availability of salary information can cause great disruption within an office when employees look up each other's pay levels, driving ill feelings among coworkers and causing difficulties for management.

I acknowledge the public expects transparency from their government, and disclosure of a reasonable amount of information regarding government employees is necessary. However, the disclosure of the names and exact salaries of legislative employees is both unreasonable and unnecessary, which is why I support H.B. 1768 HD2. This measure will address the discrepancy between disclosure requirements for civil service and legislative employees and provide a sensible level of disclosure.

Thank you very much for the opportunity to provide this testimony.

# OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII  
NO. 1 CAPITOL DISTRICT BUILDING  
250 SOUTH HOTEL STREET, SUITE 107  
HONOLULU, HAWAII 96813  
TELEPHONE: 808-586-1400 FAX: 808-586-1412  
EMAIL: oip@hawaii.gov

To: Senate Committee on Labor

From: Cheryl Kakazu Park, Director

Date: March 15, 2018, 2:45 p.m.  
State Capitol, Conference Room 229

Re: Testimony on H.B. No. 1768, H.D. 2  
Relating to Information Practices

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Thank you for the opportunity to submit testimony on this bill, which would amend the Uniform Information Practices Act (“UIPA”) to provide that for all legislative employees, only their salary range would be disclosable, as is the case for union or civil service employees, and not the exact salary, as for exempt employees. The Office of Information Practices (“OIP”) takes **no position** on the question of whether the category of employees for whom only salary range is disclosable should be expanded. While such an amendment could more accurately reflect the original legislative history of the UIPA to disclose only salary ranges for non-managerial level employees, **OIP is concerned that making such a change only for legislative employees would lead to differential treatment of salary information for legislative employees versus government employees in general, and that this proposal applies not only to lower level employees but also to managerial employees and even legislative agency directors.**

The substance and the legislative history of the UIPA’s salary disclosure provision suggest that the Legislature adopted the recommendations of the Governor’s Committee on Public Records and Privacy regarding how best to

balance employee privacy with the public interest in government employee salaries, as discussed at length in OIP Opinion Letter Number 93-10, a copy of which is attached to this testimony. The Governor's Committee intended the focus for exact salary disclosure to be on "the salaries of appointed or high level positions." Vol. I Report of the Governor's Committee on Public Records and Privacy (1987), 106, 109, *quoted in* OIP Op. Ltr. No. 93-10 at 4. More specifically, the intent was that "providing the actual salaries of all 'exempt and/or excluded employees' would mean that the salaries of all appointed positions and all managerial positions would be public," with only salary ranges disclosed for other employees. Id.

OIP recognizes that in the decades since that report was written, the number of exempt and excluded employees has grown to include many employees who are not managerial or high level, or are not appointed (except in the sense of being appointed by the head of the office or agency), and thus are not the type of employee the Governor's Committee and the Legislature originally envisioned as appropriate for disclosure of exact salaries. For this reason, **OIP is not conceptually opposed to amending the UIPA's mandatory disclosure provision to bring the category of government employees for whom exact salary must be disclosed more into line with the Legislature's original intent. However, this issue is not limited to legislative staff and legislative agencies. OIP is concerned that this bill as written would increase the differential treatment of government employee salary information under the UIPA, by providing that all legislative staff (including even directors of legislative agencies whose salaries are set by statute) would have only broad salary ranges disclosed, while clerical and other lower level exempt employees in the executive branch and elsewhere would continue to have exact salaries disclosed.**

The \$25,000 increments for salary ranges proposed by the H.D. 2, while narrower than those proposed by the H.D. 1, are still fairly broad. **OIP shares the concerns raised by other testifiers that if the bill is to set salary ranges to be used for disclosure, those ranges should be more narrowly defined.**

If this Committee is inclined to return to the original intent of the UIPA to provide only salary ranges for positions that are non-managerial and not appointed by the Governor or Legislature, then **OIP recommends that it make such an amendment applicable to all non-managerial and non-appointed employees, not just those in the legislative branch, with reasonably narrow salary bands.** While OIP itself takes no position on this issue, OIP would be happy to work with this Committee to develop appropriate statutory language.

Thank you for the opportunity to testify.



**HAWAII GOVERNMENT EMPLOYEES ASSOCIATION**  
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Ninth Legislature, State of Hawaii  
The Senate  
Committee on Labor

Testimony by  
Hawaii Government Employees Association

March 15, 2018

H.B. 1768, H.D. 2 – RELATING  
TO INFORMATION PRACTICES

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO conceptually supports the intent of H.B. 1768, H.D. 2, which amends a section of the Uniform Information Practices Act by allowing the disclosure of a legislative employee's salary range rather than the exact compensation, with a proposed amendment.

Under the current Uniform Information Practices Act, each agency must allow the members of the public access to employee information, including an employee's name, bargaining unit, job title, business address and telephone number, education and training background, and previous work experience, in addition to an agency's present and former officers. While we understand and agree with the need for government accountability and transparency, and acknowledge that tax payers want to know how and where their money is being spent, publishing any employee's dollar amount salary does not adequately capture the State's expenses. All employees are entitled to a measure of privacy, and should be afforded basic dignity and respect in doing their jobs. Being a government employee does not necessitate one to be subject to the degradation, embarrassment and anxiety that a full disclosure may cause.

Therefore, while we support the intent of H.B. 1768 to amend statute specific to legislative officers, we respectfully request an amendment to equally extend the same provisions for all employees, including those who are exempt from civil service.

Thank you for the opportunity to testify in support of H.B. 1768, H.D. 2 with a proposed amendment.

Respectfully submitted,

  
for Randy Perreira  
Executive Director



Senate Committee on Labor  
Chair Jill Tokuda, Vice Chair Kalani English

03/15/2018 2:45 PM Room 229  
HB1768 HD2 – Relating to Information Practices

TESTIMONY / OPPOSE  
Corie Tanida, Executive Director, Common Cause Hawaii

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Dear Chair Tokuda, Vice Chair English, and members of the committee:

**Common Cause Hawaii opposes HB1768 HD2** which would exempt all legislative employees from mandatory disclosure of exact salaries, and instead require the disclosure of salary ranges.

As currently written this bill is too broad and would decrease public access to information. According to OIP opinion 93-10, salary disclosure is intended to apply to those with “appointed or high level positions”<sup>1</sup>.

If your intention is to protect employees’ privacy while still providing useful information to the public, we suggest you exempt only “legislative employees” who are not in top-level, managerial positions from exact salary disclosure, as it’s typically managerial positions which attract the most public attention and scrutiny.

Thank you for the opportunity to testify in **opposition to HB1768 HD2**.

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<sup>1</sup> <http://oip.hawaii.gov/formal-opinions/93-10/>





March 15, 2018

Sen. Jill Tokuda  
Senate Labor Committee  
State Capitol  
Honolulu, HI, 96813

Re: House Bill 1768, HD2

Chairwoman Tokuda and Committee Members:

We are opposed to this measure.

Although the bill has been changed to show pay of legislative employees in \$25,000 increments, it would still block the public from seeing high-ranking supervisory pay so it can't evaluate whether it is getting its money's worth.

This bill doesn't go far enough in separating disclosure of salaries of managerial and appointed employees from all legislative employees and would block public view of salaries of high-ranking officials that should be available to the public. The bill also does not establish a pay range that would be used.

This bill is troublesome, and we ask that you retain disclosure of the supervisory personnel's pay.

Thank you,

Stirling Morita  
President, Hawaii Chapter of the Society of Professional Journalists

THE CIVIL BEAT  
LAW CENTER FOR THE PUBLIC INTEREST

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Senate Committee on Labor  
Honorable Jill N. Tokuda, Chair  
Honorable J. Kalani English, Vice Chair

**RE: Testimony Opposing H.B. 1768 HD 2, Relating to Information Practices**  
Hearing: March 15, 2018 at 2:45 p.m.

Dear Chair and Members of the Committee:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote governmental transparency. Thank you for the opportunity to submit testimony **opposing H.B. 1768 HD 2 as currently drafted.**

As drafted, H.B. 1768 HD 2 sweeps far too broadly. The salary/salary range distinction originated with the Governor's Committee on Public Records and Privacy. That Committee explained:

[T]he public has a right to know what public employees are making, at least in part, to judge whether it is worth the expense. . . . If the focus is the salaries of appointed or *high level positions*, and that appeared to be the case from much of the testimony and comment, then perhaps the formula should allow the specific salaries of most employees to be confidential while providing the information which is more important. For example, providing the actual salaries of all "exempt and/or excluded employees" would mean that the salaries of all appointed positions and *all managerial positions would be public*. That could be supplemented by providing the "salary ranges" for all other employees. For example, a Clerk-Typist II is in Salary Range 8 and, therefore, has under the current contract a salary of \$13,260 to \$20,040 a year depending upon seniority. (emphasis added)

H.B. 1768 HD 2 deviates from that original intent, exempting all legislative employees from the mandatory disclosure requirement regardless whether that person has managerial duties. For example, the bill improperly exempts individuals who are more equivalent to Executive Branch directors and deputy directors. The public interest in high-level staff (*e.g.*, chief clerks, sergeants-at-arms, legislative service agency directors, and others in senior positions) is much greater, and they should not be exempt.<sup>1</sup>

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<sup>1</sup> Withholding the auditor, LRB director, and ombudsman salaries also does not make sense because their salaries are tied to the DOH director's salary, which is public record.

The Law Center respectfully requests that this Committee follow its recommended amendments to the companion legislation, S.B. 2870 SD 1:

As used in this paragraph, “legislative employees” means staff of the legislative branch of the State and non-managerial employees of legislative service agencies as defined by section 21E-1.

We also note that HGEA previously has supported expanding this legislation to limit disclosures for exempt Executive Branch employees. Based on information provided by the Department of Human Resources Development, HGEA’s proposal would reduce transparency on almost 1000 government employees, who include – among others – branch chiefs, project managers, and supervisors.<sup>2</sup> Because there may be distinct issues with these exempt employees as compared to legislative staff, any proposal concerning Executive Branch disclosures should be addressed in separate legislation.

Thank you again for the opportunity to testify.

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<sup>2</sup> The Law Center’s request and resulting data may be found at <https://uipa.org/r/101>.



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SENATE COMMITTEE ON LABOR

Thursday, February 15, 2018, 2:45 PM, Conference Room 229  
HB 1768, HD 2 Relating to Information Practices

**TESTIMONY**

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Tokuda and Committee Members:

**The League of Women Voters strongly opposes HB 1768, HD 2.** This bill substitutes disclosure of a broad salary range to replace disclosure of the exact salary paid to legislative officers and employees.

Legislative officers and employees include “political hires” whose selection and compensation primarily are based on political considerations. Several decades ago, some elected officials used to adjust the salaries of their “political hires” to encourage campaign contributions. The League opposes HB 1768, HD 2 because this bill would:

- preclude the public and news media from learning of unethical and/or capricious adjustment of salaries paid to “political hires” and
- preclude the public and news media from evaluating whether “political hires” are appropriately compensated.

Thank you for the opportunity to submit testimony.

**HB-1768-HD-2**

Submitted on: 3/13/2018 7:52:35 AM

Testimony for LBR on 3/15/2018 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Wendy Arbeit	Individual	Oppose	No

Comments:

I am opposed to this measure as it would block public views of important salary information and tells the public how its tax money is being spent.

I agree with Common Cause Hawaii in its position that "this bill is too broad and would decrease public access to information, which we do not believe is the Legislature's intent. According to OIP opinion 93-10, the intent is for salary disclosure to apply to those with "appointed or high level positions"

"If your intention is to protect employees' privacy while still providing useful information to the public, we suggest you exempt only "legislative employees" who are *not in top-level, managerial positions* from exact salary disclosure, as it's typically managerial positions which attract the most public attention and scrutiny. We also suggest defining the salary ranges, so that the increments are small enough, perhaps in the \$15,000-\$20,000 range, so that the information remains useful and meaningful to the public. "

**HB-1768-HD-2**

Submitted on: 3/13/2018 10:19:47 AM

Testimony for LBR on 3/15/2018 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
lynne matusow	Individual	Oppose	No

Comments:

The public has a right to know. This bill should die now. It is another example of the government hiding things from those who pay their salaries. We need transparency, not opaqueness.

If people want to work for government then the public has a right to know the salaries. If the employee doesn't like it they can get another job. We are the ones who pay the salary, not legislators, etc. Everyone's salary should show, not vague ranges. And you wonder why populism is taking off!

I find it interesting that those concerned with the public interest and sunshine oppose the bill and unions, government organizations, etc. favor the bill. There is something wrong with this picture, very wrong.

Lynne Matusow